

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS PERRY,

Plaintiff,

v.

MICHAEL KIMBERLING, *et al.*,

Defendants.

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: **Civil Action No. 16-2773 (SRC)**
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: **OPINION & ORDER**
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CHESLER, District Judge

This matter comes before the Court upon the motion to remand Plaintiff's Complaint to the Superior Court of New Jersey, Sussex County, filed by Defendants Michael Kimberling and Randy Deitman ("Defendants") [Docket No. 4]. Plaintiff filed a Complaint in federal court arising out of a car accident on the basis of diversity jurisdiction. Defendants do not contest the propriety of federal jurisdiction, but wish to remand the case because Plaintiff had previously filed and dismissed a similar complaint in state court. Remand cannot remedy Defendants' dissatisfaction with Plaintiff's choice of a federal forum because this case was never removed from state court. *See* 28 U.S.C. § 1447. Without a prior removal, there is nothing to remand.

For the reasons stated above,

IT IS on this 7th day of July, 2016,

ORDERED that Defendants' motion to remand [Docket No. 4] is **DENIED**.

s/ Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge